

Cigelske Jr., James J.

S/N: 10/065,582

REMARKS

Claims 1-19 are pending in the present application. In the Office Action mailed September 24, 2003, the Examiner rejected claims 11, 12, 14, and 15 under 35 U.S.C. §102(a) as being anticipated by Wilson (USP 6,508,704). The Examiner also rejected claims 11, 13, and 16 under 35 U.S.C. §103(a) as being obvious in view of Wilson. Applicant appreciates the indication of allowability of claims 17-19 and the thorough examination of claims 11-19.

The Examiner rejected claims 11, 12, 14, and 15 under 35 U.S.C. §102(a) as being anticipated by Wilson. Applicant has amended claim 11 to further define the invention. As amended, claim 11 calls for, in part, that each louver is tapered from a front edge to a rear edge. As shown in Figs. 5A, 6B, and 7 of Wilson, the louvers of the vent are generally planar, as shown in Fig. 5A, or are tapered toward point C, as shown in Fig. 6B. As shown in Fig. 6B, each vane is tapered from the leading edge to the midpoint and from the trailing edge to the midpoint. As such, the vanes of Wilson are not tapered from the front edge to the rear edge. Therefore, that which is called for in claim 11 is not shown, taught, or suggested in the art of record.

The Examiner rejected claim 16 under 35 U.S.C. §103(a) over Wilson stating that "Wilson discloses all of the limitations of the claim except for the set of louvers being connected to one another through a single center post." The Examiner further states that "... since the applicant has failed to establish any criticality or synergistic results which are derived from the recited configurations, these limitations are considered a matter of obvious design choice." The Examiner has not provided any support for imposing such a requirement. In fact, there is no support for such a rejection. Applicant need not "establish any criticality or synergistic results." As the Examiner stated in the "Response to Arguments" on pg. 3 of the Office Action, "the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art." As a result, Applicant presents the subject matter of claims 13, 16, and original independent claim 11 as new claim 20. Since no sustainable rejection of claim 16 has been set forth, Applicant believes new claim 20 is in condition for allowance.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP §2143.03. Original claim 16, now new claim 20 is patentable over Wilson in at least two respects. In a first respect, as stated by the Examiner, Wilson does not disclose a set of louvers connected to one another through a single center post.

In a second respect, original claim 16 depended from claim 13 which called for the vent assembly to be incorporated into a welder. While the Examiner has stated that, "it has been held

Cigelske Jr., James J.

S/N: 10/065,582

that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations." (Emphasis added) Claim 13 does not state that the vent assembly is intended to be employed in a welder. Claim 13 positively calls for the vent assembly of claim 11 incorporated into a welder. Such is a structural limitation. Therefore, claim 13 and those claims that depend therefrom call for a welder as a structural element of the claimed invention. The vent assembly of Wilson is constructed to prevent the transmission of light from an interior of a projector unit. A projector is not a welder. As such, for at least the reasons set forth above, that which is called for in new claim 20 is patentably distinct over the art of record.

Claims 21, 22, and 23 contain the allowable subject matter of original claims 17-19. Claim 21 is the allowable subject matter of original claims 11, 13, and 17. Claims 22 and 23 include the allowable subject matter of original claims 18 and 19, each amended to reflect the proper chain of dependency.

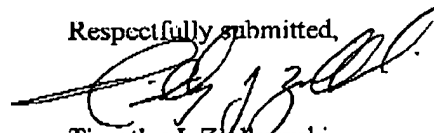
In the Office Action Summary, the Examiner indicated that claims 1-10 are subject to a restriction and/or election. As Applicant believes the restriction to be improper and unsustainable, Applicant has filed concurrently herewith a Petition under 37 C.F.R. §1.144 requesting review of the restriction requirement.

Regarding claims 11-23, Applicant respectfully believes that these claims are all in condition for allowance.

A credit card authorization in the amount of \$338.00 is also enclosed for the fee of \$208.00 associated with entering the claims newly presented herein and the fee of \$130.00 for entry of the Petition under 37 C.F.R. §1.144.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved or if the Examiner believes discussion will further prosecution.

Respectfully submitted,



Timothy J. Ziolkowski
Registration No. 38,368
Direct Dial 262-376-5139
tjz@zspatents.com

Dated: December 19, 2003
Attorney Docket No.: ITW7510.031
P.O. ADDRESS:
Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097-1416
262-376-5170